

HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

C.W.P. No. 618 of 2005

Date of Decision:14.5.2007

Deputy Director of Agriculture Petitioner.

versus

Madan Lal & another. Respondents.

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Judge.

Whether approved for reporting? No

For the petitioner : Mr. C. B. Singh, Deputy Advocate
General.

For respondent No.1 : Mr. Ashwani Gupta, Advocate

Sanjay Karol, J (oral).

This judgment is being dictated in open Court in presence of the learned counsel for the parties.

Petitioner has assailed the award dated 25th February, 2005 passed by the H. P. Industrial Tribunal-cum-Labour Court, Shimla, in Reference No. 165 of 2000.

In October, 2000, the following reference was made by the State Government under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'):-

“Whether termination of services of Shri Madan Lal, Ex.cook-cum-Chowkidar by the Deputy Director (Agriculture), Nahan District Sirmaur, H.P. we.f. 20.7.93 without any notice, charge - sheet, enquiry and without compliance of Section 25(F) of the Industrial Disputes Act,

Whether reporters of local papers may be allowed to see the judgment?

1947, on completion of 240 days continuous service and retaining juniors in employment, as alleged, is legal and justified. If not, to what relief of service benefits and amount of compensation, Shri Madan Lal is entitled?."

Claim petition was filed by the respondent – employee seeking his reinstatement in service. Along with the reply, the petitioner-employer annexed the chart showing number of Mandays and years the respondent – employee had worked. Based on the material on record, including the chart showing number of Mandays worked, the Tribunal came to the conclusion that the petitioner –employee had been working for more than 240 days in the calendar year preceding 12 months from the date of his alleged termination, which was 20th July, 1993. Perusal of the material on record placed before this Court including the chart would show that the position is correct. It has also come on record that no notice as required had been issued by the petitioner – employer to the respondent – employee.

During the course of hearing, learned counsel for the respondent – employee submits that his client furnishes an undertaking to this Court by way of his statement, that in terms of the impugned award, he shall forego back wages and would be entitled for the wages only from the date of his joining. However, for the purposes of continuity in service and seniority, date of reference of the award being 20th October, 2000, be considered.

This undertaking of the respondent - employee is taken on record and the award is accordingly modified to the extent that the respondent – employee would not be entitled for any back wages and

would receive his wages only from the date of his joining the services. However, for the purposes of continuity in service, seniority shall be reckoned with from 20th October, 2000, which is the date of reference.

Mr. Gupta, learned counsel for the respondent – employee apprehends that his client may not be allowed to join. In this view of the matter, the petitioner – employer is directed to intimate the place and time of joining within a period of four weeks from today.

No other point was pressed or urged by the learned counsel for the parties.

In this view of the matter, I see no reason to interfere with the well reasoned impugned award passed by the Tribunal. In view of the aforesaid, the writ petition is accordingly disposed of.

(Sanjay Karol),
Judge.

May 14, 2007.
(rana)